



CHAPTER 212.

An act for the regulation of the practice of medicine and surgery, osteopathy, and other systems or modes of treating the sick or afflicted, in the State of California, and for the appointment of a board of medical examiners in the matter of said regulation.

[Approved March 14, 1907.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Board
of medical
examiners

SECTION 1. The governor shall appoint a board of medical examiners to be known as the board of medical examiners of the State of California, consisting of eleven members. Such appointments shall be made from separate lists presented to him every second year; five members from a list of ten names presented by the Medical Society of the State of California, two members from a list of four names presented by the California State Homeopathic Medical Society, two members from a list of four names presented by the Eclectic Medical Society of the State of California, and two members from a list of four names presented by the Osteopathic Association of the State of California. Vacancies occurring in the representation of said societies, respectively, shall be filled by appointment from said lists. The appointment of each member shall be for a term of two years, and until his successor is appointed and qualified; *provided, however*, that no professor, instructor, or other person in any manner connected with, or financially interested in any college or school of medicine or surgery or osteopathy shall be appointed a member of said board. It shall require the affirmative vote of seven members of said board to carry any ~~motion~~ or resolution to adopt any rule to pass any measure or to authorize the issuance of any certificate as in this act provided.

Vacancies.

Term.

Oath of
office.

SEC. 2. Each member of said board, shall, before entering upon the duties of his office, take the constitutional oath of office, and shall, in addition, make oath that he is a graduate in medicine and surgery or osteopathy, and a licensed practitioner of medicine and surgery, or of osteopathy, of this state.

Organiza-
tion.

SEC. 3. Said board shall organize on or before the first Tuesday of May, 1907, by electing from its number a president, vice-president, secretary and treasurer, who shall

board. Said board shall hold its regular meetings in the city and county of San Francisco on the first Tuesday of April, August, and December of each year, with power of adjournment from time to time until its business is concluded; *provided, however*, that examinations of applicants for certificates may, in the discretion of the board, be conducted in any part of the state designated by the board. Notice of each regular meeting of the board shall be given by publication twice a week for each of the two weeks next preceding each meeting, in two daily papers published in the city of San Francisco, in one daily paper published in the city of Sacramento, and one daily paper published in the city of Los Angeles, which notice shall also specify the time and place of holding the examination of applicants. Special meetings of the board may be held at such time and place as the board may designate, and the same notice thereof shall be given as in case of regular meetings. Said board shall receive through its secretary applications for the certificates provided to be issued by this act, and shall on or before the first day of January of each year transmit to the governor a full report of all its proceedings, together with a report of its receipts and disbursements.

Meetings.

Examinations.

Notice of meeting.

Report of proceedings.

SEC. 4. The office of said board shall be in the city and county of San Francisco, and in all legal proceedings against the board the said city and county shall be deemed to be the residence of the members thereof.

Office of board.

SEC. 5. Said board may from time to time adopt such rules as may be necessary to enable it to carry into effect the provisions of this act. Any member of said board may administer oaths in all matters pertaining to the duties of said board, and the board shall have authority to take evidence in any matter cognizable by it.

Rules.

SEC. 6. Three forms of certificate shall be issued by said board under the seal thereof and signed by the president and the secretary: first, a certificate authorizing the holder thereof to practice medicine and surgery; second, a certificate authorizing the holder thereof to practice osteopathy; third, a certificate authorizing the holder thereof to practice any other system or mode of treating the sick or afflicted not referred to in this section.

Forms of certificates.

In order to procure a certificate to practice medicine and surgery, the applicant for such certificate must file with said board at least two weeks prior to a regular meeting thereof, satisfactory testimonials of good moral character, and a diploma issued by some legally chartered medical school, the requirements of which shall have been at the time of granting such diploma in no particular less than those prescribed by the Association of American Medical Colleges for that year, or satisfactory evidence of having possessed such diploma, and he must also file with said diploma an application sworn to before some person authorized to administer oaths, and attested by the hand and seal of such officer, if he have a seal, stating that he is the person named in said

How to procure certificates

Certificate
to practice
oste-
opathy.

Other
modes of
treatment

Personal
examina-
tion
required.

Subjects.

General
average
required of
applicants.

Papers a
part of
records.

Fees.

same was procured in the regular course of instruction and examination, without fraud or misrepresentation. The said application shall be made upon a blank furnished by said board, and it shall contain such information concerning the medical instruction and the preliminary education of the applicant as said board may by rule provide. Applicants who have failed to meet the above requirements must be rejected. Applicants for a certificate to practice osteopathy shall be subject to the above regulations, except that in place of the diploma hereinbefore referred to, they shall be required to file a diploma from a legally chartered college of osteopathy, having a course of instruction of at least twenty months, requiring actual attendance, and after 1908, of three years of nine months each, and including the studies examined upon under this act. Applicants for a certificate to practice any other system or mode of treatment not in this act, shall be subject to the above regulations, except that in place of the diplomas hereinbefore referred to, they shall be required to file a diploma from a legally chartered college of the system or mode of treatment which the applicant claims or intends to follow.

In addition to the requirements above set forth, all applicants for a certificate must be personally examined by said board as to their qualifications. The examination shall be conducted in the English language, shall be practical in character and designed to discover the applicant's fitness to practice his profession, and shall be, in whole or in part, in writing on the following fundamental subjects, to wit: Anatomy, histology, gynecology, pathology, bacteriology, chemistry and toxicology, physiology, obstetrics, general diagnosis, hygiene. Examinations in each subject shall consist of not less than ten questions, answers to which shall be marked upon a scale of zero to ten. But all applicants must obtain not less than a general average of seventy-five per cent and not less than sixty per cent in any one subject; provided, that applicants who can show at least ten years of reputable practice shall be granted a credit of five per cent upon the general average, and five per cent additional for each subsequent ten years of such practice.

The examination papers shall form a part of the records of the board and shall be kept on file by the secretary for a period of one year after each examination. In said examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret until after the board has finally voted upon the application. The secretary of the board shall in no instance participate as an examiner in any examination held by the board.

SEC. 7. Each applicant on making application shall pay to the secretary of the board a fee of twenty-five (25) dollars, which shall be paid to the treasurer of the board by said secretary. In case the applicant's credentials are insufficient, or in case he does not desire to take the examination, the sum of ten (10) dollars will be retained, the remainder of the fee being returnable on application.

SEC. 8. Said board shall keep an official record of all its proceedings, a part of which record shall consist of a register of all applicants for certificates under this act, with the result of each application. Said record shall be evidence of all the proceedings of said board which are set out therein. Record.

SEC. 9. Every person holding a certificate authorizing him to practice medicine and surgery, or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, must have it recorded in the office of the county clerk of the county in which the holder of said certificate is practicing his profession, and the fact of such recording shall be indorsed on the certificate by the county clerk recording the same. Every such person, on each change of his residence must have his certificate recorded in the county to which he shall have changed his residence. The absence of such record shall be prima facie evidence of the want of possession of such certificate. And any person holding a certificate who shall practice medicine or surgery or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, or to attempt to practice medicine or surgery or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, without first having filed his certificate with the county clerk as herein provided, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars or by imprisonment for a period of not less than thirty days nor more than sixty days, or by both such fine and imprisonment. Certificates to be recorded by county clerk.

SEC. 10. The county clerk shall keep in a book provided for the purpose, a complete list of the certificates recorded by him, with the date of the record; and said book shall be open to public inspection during his office hours. County clerk to keep record.

SEC. 11. Said board must refuse a certificate to any applicant guilty of unprofessional conduct; but before such refusal the applicant must be cited by citation, signed by the secretary of the board, and sealed with its seal. No such citation shall be issued except upon a sworn complaint filed with the secretary of the board, charging the applicant with having been guilty of unprofessional conduct, and setting forth the particular acts constituting such unprofessional conduct. On the filing of such complaint the secretary must forthwith issue a citation and make the same returnable at the next regular session of said board, occurring at least thirty days next after filing the complaint. Such citation shall notify the applicant of the time and place, when and where the matter of said unprofessional conduct shall be heard, the particular unprofessional conduct with which the applicant is charged, and that the applicant shall file his written answer, under oath, within twenty days next after the service on him of said citation, or default will be taken against him, and his application for a certificate refused. The attendance of witnesses at such hearing shall be compelled by subpoenas issued by the secretary of the board, under its seal; and said secretary shall in no case refuse to Unprofessional conduct.

Hearing of charges.

Service of
subpoenas

issue any such subpoena, upon a fee of twenty cents being paid him for each subpoena. Said citation and said subpoenas shall be served in accordance with the statutes of this state then in force as to the service of citations and subpoenas generally, and all provisions of the statutes of this state then in force relating to subpoenas are hereby made applicable to the subpoenas provided for herein. If any person refuse to obey a subpoena served upon him in accordance with the statutes of this state then in force providing for the manner of serving subpoenas, the fact of such refusal shall be certified by the secretary of said board, under the seal thereof, to the superior court of the county in which the service was had, and said court shall thereupon proceed to hear said matter in accordance with the statutes of this state then in force as to contempts for disobedience of process of the court; and should said court find that the subpoena has been legally served, and that the party so served has willfully disobeyed the same, it shall proceed to impose such penalty as provided in cases of contempt of court. In all cases of alleged unprofessional conduct arising under this act, depositions of witnesses may be taken, the same as in civil cases, and all the provisions of the statutes of this state then in force as to the taking of depositions are hereby made applicable to the taking of depositions under this act. If the applicant shall fail to file with the secretary of said board his answer, under oath, to the charges made against him, within twenty days after service on him of said citation, or within such further time as the board may give him, and the charges on their face be deemed sufficient by the board, default shall be entered against him, and his application refused. If the charges on their face be deemed sufficient by the board, and issue be joined thereon by answer, the board shall proceed to determine the matter, to that end shall hear such evidence as may be adduced before it; and if it appear to the satisfaction of the board that the applicant is guilty as charged, no certificate shall be issued to him. No certificate shall be refused on the ground of unprofessional conduct unless the applicant has been guilty of such conduct within two years next preceding his application. Whenever any holder of a certificate herein provided for is guilty of unprofessional conduct, as the same is defined in this act, and the said unprofessional conduct has been brought to the attention of the board granting said certificate, in the manner hereinafter pointed out, or whenever a certificate has been procured by fraud or misrepresentation, or issued by mistake, it shall be their duty to, and they must, revoke the same at once, and the holder of said certificate shall not be permitted to practice medicine or surgery, or osteopathy, or any other system or mode of treating the sick or afflicted, in this state. But no such revocation shall be made unless such holder is cited to appear and the same proceedings are had as is hereinbefore provided in this section in case of refusal to issue certificates. Said secretary in all cases of revocation shall enter on his register the fact of such revocation and shall certify the fact of such revocation under

Depositions.

Default.

Revocation of
certificate

the seal of the board, to the county clerk of the counties in which the certificate of the person whose certificate has been revoked, is recorded; and said clerk must thereupon write upon the margin or across the face of his register of the certificate of such person, the following: "This certificate was revoked on the _____ day of _____," giving the day, month and year of such revocation in accordance with said certification to him by said secretary. The record of such revocation so made by said county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all the proceedings of said board in the matter of said revocation. From the time of the revocation of a certificate the holder thereof shall be disqualified from practicing medicine or surgery, osteopathy, or any other system or mode of treating the sick or afflicted, in this state.

Record
of revoca-
tion.

The words "unprofessional conduct," as used in this act, are hereby declared to mean:

Unpro-
fessional
conduct
defined.

First—The procuring, or aiding or abetting in procuring a criminal abortion.

Second—The willfully betraying a professional secret.

Third—All advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, and so be harmful or injurious to public morals or safety.

Fourth—All advertising of any medicine or of any means whereby the monthly periods of women can be regulated or the menses re-established if suppressed.

Fifth—Conviction of any offense involving moral turpitude, in which case the record of such conviction shall be conclusive evidence.

Sixth—Habitual intemperance.

Seventh—The personation of another licensed practitioner of a like or different name.

SEC 12. Said board shall have the power to employ legal counsel and clerical assistance and to fix the salaries of the same and to incur such other expenses as may be deemed necessary to carry into effect the provisions of this act. It shall also fix the salary of the secretary, not to exceed the sum of twelve hundred dollars (\$1200) per annum, and the sum to be paid to other members of said board, not to exceed ten (10) dollars per diem each, for each and every day of actual service in the discharge of official duties; and said board may, in its discretion, add to said sums necessary traveling expenses. All money in excess of the actual expenses of the board shall be paid annually into the state treasury.

Expenses
and
salaries.

SEC. 13. Any person who shall practice or attempt to practice or advertise or hold himself out as practicing medicine or surgery, osteopathy, or any other system or mode of treating the sick or afflicted, in this state, without having, at the time of so doing, a valid, unrevoked certificate, as provided in this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred (100) dollars, nor more than five hundred (500) dollars.

Illegal
practice.

Penalty.

or by imprisonment for a term of not less ~~than sixty~~ (80) days, nor more than one hundred and ~~eighty~~ (180) days, ~~or~~ by both such fine and imprisonment. In each such conviction the fine shall be paid, when collected, to the state treasurer, and shall constitute a special fund for the prosecution of illegal practitioners as defined in this act, the said fund to be paid to the said board upon warrants drawn therefor by its secretary, and the said board is authorized to prosecute all persons guilty of a violation of the provisions of this section.

False
registration.

SEC. 14. Every person filing for record, or attempting to file for record, the certificate issued to another, falsely claiming himself to be the person named in such certificate, or falsely claiming himself to be the person entitled to the same, shall be guilty of a felony, and, upon conviction thereof, shall be subject to such penalties as are provided by the laws of this state for the crime of forgery.

False
representation.

SEC. 15. Any person assuming to act as a member of the state board of medical examiners without so being, or who shall sign, or subscribe, or issue, or cause to be issued, or seal or cause to be sealed, a certificate authorizing any person to practice medicine or surgery, or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment for a term of not less than sixty nor more than one hundred and eighty days, or by both such fine and imprisonment.

Previous
registration.

SEC. 16. Any person who holds a certificate from the board of medical examiners created by, "An act for the regulation of the practice of medicine and surgery, in the State of California, and for the appointment of a board of medical examiners in the matter of such regulation," which took effect August the first, nineteen hundred and one, or from one of the boards of examiners heretofore existing, under the provisions of "An act to regulate the practice of medicine in the State of California," approved April third, eighteen hundred and seventy-six, or an act supplemental and amendatory to said act, which became a law, April first, eighteen hundred and seventy-eight, shall be entitled to practice medicine and surgery, in this state, the same as if it had been issued under this act; any person who holds a certificate from the board of osteopathic examiners of the State of California, under the provisions of "An act to regulate the practice of osteopathy in the State of California, and to provide for a state board of osteopathic examiners, and to license osteopaths to practice in this state, and to punish persons violating the provisions of this act," which became a law under constitutional provisions, without the governor's approval, March ninth, nineteen hundred and one, shall be entitled to practice osteopathy in this state, the same as if it had been issued under this act; but all certificates herein mentioned may be revoked for unprofessional conduct, and in the same manner, and upon the same grounds, as if they had been

SEC. 17. Nothing in this act shall be so construed as to inhibit service in the case of emergency, or to the domestic administration of family remedies; nor shall this act apply to any commissioned medical officer in the United States army, navy or marine hospital service, in the discharge of his official duties; nor to any licensed dentist when engaged exclusively in the practice of dentistry. Nor shall this act apply to any practitioner from another state or territory, when in actual consultation with a licensed practitioner of this state, if such practitioner is, at the time of such consultation, a licensed practitioner in the state or territory in which he resides; *provided*, that such practitioner shall not open an office or appoint a place to meet patients or receive calls within the limits of this state. Nor shall this act be construed so as to discriminate against any particular school of medicine or surgery or osteopathy, or any other system or mode of treating the sick or afflicted, or to interfere in any way with the practice of religion; *provided* that nothing herein shall be held to apply or to regulate any kind of treatment by prayer.

Emergency services.

Particular schools of medicine.

SEC. 18. *Repeal*. All acts, or parts of acts, in any wise conflicting with the provisions of this act, are hereby repealed.

Conflicting acts repealed.

SEC. 19. This act shall take effect from and after the first day of May, nineteen hundred and seven.
